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July 18, 1997

**VIA HAND DELIVERY**

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

**Re: MM Docket No. 87-268**

Dear Mr. Caton

Transmitted herewith, on behalf of South Dakota Board of Directors for Educational Telecommunications, licensee of noncommercial educational stations KBHE-TV and KPSD-TV are an original and four copies of its Opposition to Petition for Partial Reconsideration of Sixth Report and Order (RBC).

Very truly yours

*Stanley S. Neustadt*  
Stanley S. Neustadt

Enclosures

DS1/38426-1



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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

BEFORE THE

# Federal Communications Commission

In the Matter of )  
 )  
Advanced Television Systems )  
and Their Impact upon the )  
Existing Television Broadcast )  
Service )

MM Docket No. 87-268

## OPPOSITION TO PETITION FOR PARTIAL RECONSIDERATION OF SIXTH REPORT AND ORDER

The South Dakota Board of Directors for Educational Telecommunications ("SDETV"), which is the licensee of noncommercial educational television stations KBHE-TV, Rapid City, SD and KPSD-TV, Eagle Butte, SD, among others, by its attorneys, pursuant to Section 1.429 of the Commission's Rules, files this Opposition to the Petition for Partial Reconsideration filed in the above-captioned proceeding by Rapid Broadcasting Company ("RBC") insofar as it urges changes in the DTV allotments for Stations KBHE-TV and KPSD-TV. In support of its opposition, SDETV states:

1. RBC is the licensee/permittee of three low power TV stations assigned to Rapid City, South Dakota. RBC contends that the Commission's allotments of DTV channels to full power TV stations in South Dakota have the potential to interfere with its low power operations. Accordingly, it requests that those allotments be changed, and among the changes it seeks are the allotments for Stations KBHE-TV and KPSD-TV (from Channels 23 and 24 to Channels 50 and 44, respectively). SDETV vigorously opposes these changes.

2. For several generations the Commission has constructed and followed a carefully designed and executed structure for this country's television system, designed to provide the best service to the greatest number of people. Its most essential features are an allocation of full service television stations designed to accomplish as far as possible the basic requirements of Section 307(b) of the Communications Act. Added to this basic structure over time were additional stations designed to fill in, where possible, interstices in the basic system -- but those translators and low power stations were not permitted to supplant or deteriorate the basic system. This essential system has been carried over to the far reaching DTV plan which the Commission has so carefully devised.

3. The Commission, although it has stated that the low power service is a secondary service, has also made abundantly clear that it wishes to protect as much as possible the service provided by LPTV stations. On the other hand, the statewide noncommercial educational television service provided throughout states with widely dispersed rural populations has been recognized by the Commission as a most important element of broadcast service to the public. If a choice must be made, the Commission must make it, at least in South Dakota, in favor of the importance of educational television.

4. RBC has relied heavily on the fact that its low power stations are the only over-the-air source of the programming of the NBC network in Rapid City. There are, however, four, or five, or six commercial TV networks (depending on how one counts) and their overall services vary in degree, but hardly in kind. There is only one state-supported educational TV service, and it must be nurtured and protected. Its programming is essentially unique. Commercial network programming is available in many places by cable, and, in increasingly more places, by direct TV satellite where terrestrial and cable service of a network is not otherwise available. (Indeed, if

RBC's position that it provides the only source of NBC programming is correct, its demise would permit the delivery of the network signal by satellite, under the provisions of the Copyright Act.) In such a service environment, only the noncommercial educational statewide network can provide serious treatment of local public affairs.

5. The allotment changes which RBC proposes, because the ETV stations would have to operate on much higher DTV frequencies, would greatly increase the costs of operation for SDETV, and cause immediate hardship. It is passing strange, and possibly a fatal flaw in its argument, that RBC has apparently failed even to consider changes in its own frequencies to alleviate the problem which it faces. Surely, a commercial broadcast operation may be better able financially to make such accommodations.

6. Grant of the RBC request would inevitably weaken the basic system that the Commission has adopted, even in the terms suggested by RBC. The full extent of the "ripple effect" of its proposal can hardly be calculated in advance. The risks which it surely entails cannot be accepted, in light of the importance of the service which may be jeopardized.

Respectfully submitted

SOUTH DAKOTA BOARD OF DIRECTORS FOR  
EDUCATIONAL TELECOMMUNICATIONS

By: Stanley S. Neustadt  
Stanley S. Neustadt

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July 18, 1997

Its Attorneys

## **CERTIFICATE OF SERVICE**

I, Maryam B. Jeffrey, do hereby certify that a true and correct copies of the foregoing OPPOSITION TO PETITION FOR PARTIAL RECONSIDERATION OF SIXTH REPORT AND ORDER were mailed, first-class postage prepaid, this 18th day of July 1997 to the following:

David M. Silverman  
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Maryam B. Jeffrey